



STATE BOARD OF LAND COMMISSIONERS
Dirk Kempthorne, Governor and President of the Board
Pete T. Cenarrusa, Secretary of State
Alan G. Lance, Attorney General
J. D. Williams, State Controller
Marilyn Howard, Superintendent of Public Instruction
Stanley F. Hamilton, Secretary to the Board

FINAL MINUTES
Regular Land Board Meeting
September 14, 1999 9:00 AM – 6:00 PM

The regular meeting of the Idaho State Board of Land Commissioners was held on September 14, 1999 in Boise, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete Cenarrusa
Honorable State Controller J. D. Williams
Honorable Attorney General Alan G. Lance
Honorable Superintendent of Public Instruction Marilyn Howard
Secretary to the Board Stanley F. Hamilton

• **CONSENT AGENDA**

Director Hamilton provided background information on Consent Agenda items.

A motion was made by Attorney General Lance and seconded by Secretary of State Cenarrusa to approve the Consent Agenda with the exception of items #5 and #9. The motion carried on a vote of 5-0.

The following official transactions were approved:

- A. Bureau of Range Management and Surface Leasing for Cropland, Grazing, Cottage Site, Miscellaneous and Submerged Land Leases for July – August 1999
- B. Bureau of Minerals for June through August 1999
- C. Bureau of Real Estate, Land Sale Section for June – July 1999
- D. Bureau of Real Estate, Easement Section for June – July 1999
- E. Bureau of Forest Management, May 29, 1999 through August 20, 1999
- F. Bureau of Minerals Non-Board Transactions – July 1999

1. **The following timber sale, staffed by Ron Litz, Chief, Bureau of Forest Management, was approved:**

- A. Aldermand Tip Bugs CR-4-0718 4,630 MBF

Director Hamilton provided background information on this item. This item includes an 80-acre clearcut. The sale will harvest Douglas-fir that is infested with Douglas-fir bark beetles. The clearcut solution is the only solution in this case. The site will be replanted.

2. **The following addition to qualified bidders list, timber sales, staffed by Ron Litz, Chief, Bureau of Forest Management, was approved:**

- A. Ralph Richardson, P. O. Box 1501, Bonners Ferry, ID 83805-1501
- B. Skyline Helicopters, P. O. Box 553, College Place, WA 99324
- C. Malloy Lumber Company, Inc., P. O. Box 189, Kingston, ID 83839
- D. Jepson Logging, Inc., HCR Box 150-1AA, Priest River, ID 83856

3. **The following Land Board minutes were approved:**

- A. Regular Land Board Meeting – April 13, 1999
- B. Regular Land Board Meeting – May 11, 1999
- C. Regular Land Board Meeting – June 15, 1999
- D. Special Land Board Meeting – July 6, 1999
- E. Regular Land Board Meeting – July 13, 1999

5. **Marsing Job Corps Site Surplus Property – Request by the Department of Fish and Game to reconsider the proposed sale of 52.5 acres of improved property near Marsing under the Surplus Property Act. This item was moved to the Regular Agenda.**

Director Hamilton provided background information on this item. This item is the disposal of a 52-acre tract that has been declared surplus by the Fish and Game Department. It is located in Owyhee County. It is the former Marsing Job Corps site. The recommendation is to allow Fish and Game to offer this 52-acre parcel for sale at \$680,000 with terms of 10% of the total bid to be deposited on the day of auction with the balance due at closing to occur within ninety (90) days. The site is deteriorating badly. The Fish and Game Department would like to dispose of the property promptly.

Secretary of State Cenarrusa observed this item has been up for auction several times and no one has purchased it. The appraisal is too high. Fish and Game has made an appraisal of \$625,000. The recommendation is that the property be offered for sale at the \$680,000 appraisal. It appears this will be another non-sale. It is a matter of the deterioration of the complex. It has been vandalized and equipment has been taken. It will have to be abandoned and torn down. Secretary of State Cenarrusa feels it will be difficult to secure bidders.

Governor Kempthorne asked Director Hamilton if nine acres of waterfront had been added to the property. Director Hamilton advised Fish and Game did add about nine acres of property to the site. The additional acres would increase the value somewhat but the deterioration of the buildings is causing the property to lose value faster than value can be added.

Director Hamilton stated Mr. Tom Parker from the Fish and Game Department is in the audience and will answer any questions about the appraisal. Mr. Parker may wish to speak to that issue. At this point, we may be headed for another non-sale and that does pose a problem. The time it takes to recycle the process and get another appraisal is very costly.

Governor Kempthorne asked Director Hamilton if there are other options available regarding this property. Director Hamilton offered the comment that once the Board is fully informed on this property, if the property does not go to auction, perhaps a sub-committee of two Board members might be willing to consult with the Department to see if a new value can be determined. Then the property needs to go to auction fairly quickly.

Controller Williams observed we may consider the terms of sale. In the past a lot of state land has been sold on installment sale contracts. Most of the state land is pursuant to these contracts. We changed the policy a couple of years ago. We are not selling enough land now to require 30% down and full payment within ninety days rather than carrying the sale for twenty years. That is something we may consider for this property on maybe a one-time basis. This property is deteriorating quickly. We might consider an installment sale contract so a buyer would not have to find financing at that level. The state would carry the sale if the Fish and Game Department would not object to that arrangement.

Governor Kempthorne asked if we proceed with this stated value and go to auction and it is not a successful sale, how long until we are back? Director Hamilton responded if we were required to go back and get a full new appraisal, or an amended updated appraisal, and take it back through the process, it would be at least two months, sixty days. It all depends on the working relationship that Fish and Game has with the appraiser and how much urgency they can induce.

Governor Kempthorne asked Secretary of State Cenarrusa if there were other options. He suggested that perhaps Secretary of State Cenarrusa and Controller Williams, or other members, would be willing to form a sub-committee to look at this item between now and the next Land Board meeting. The sub-committee could consider any possible adjustments or could provide recommendations. Rather than losing sixty days and then going again with an auction, we could hold to thirty days. With an adjusted value, and perhaps an adjustment to the terms, we might be more successful. Secretary of State Cenarrusa concurred saying the option is well advised.

Attorney General Lance asked how many acres contained buildings. Director Hamilton deferred to Mr. Tom Parker, Fish and Game Department. Mr. Parker stated buildings are on roughly half of the property – twenty-five (25) acres. Attorney General Lance asked Mr. Parker if there is any value in exploring the concept of dividing the acreage from the acreage containing buildings for two separate sales. Mr. Parker responded that would be difficult to do because the water system starts out on one half of the property and delivers to the other half with the irrigation system. Buildings have deteriorated to the point where they almost have no value at all to the potential property owner.

Attorney General Lance said he was trying to ascertain whether the real estate without buildings might possibly command a higher price than the portion with buildings. Mr. Parker responded that river front acreage certainly has a higher value. It has a value of approximately \$10,000 an acre but there is a limited amount.

Attorney General Lance feels the recommendation outlined by Governor Kempthorne is a good one. A sale needs to be facilitated. If that means disconnecting ourselves from an appraisal that may be unrealistically high or for us to soften our terms just a little bit in terms of payment, what the Governor has suggested is certainly a step in the right direction and will get this item taken care of quickly.

Secretary of State Cenarrusa concurred with the Governor's suggestion to defer this item for thirty days. He said he would be happy to serve on the sub-committee with Controller Williams.

A motion was made by Secretary of State Cenarrusa to defer item #5 for thirty (30) days while the sub-committee looks into the matter. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.

6. Coeur d'Alene Administrative Site Surplus Property – Request by Department of Fish and Game to sell a 1.86 acre parcel at public auction under the Surplus Property Act. This item was approved.

This property is located at the corner of Government Way and the freeway. The parcel has also been on the market for some time and has had no interested parties. Originally the county was interested. The county has withdrawn their interest. This property would go to auction. The appraised price is \$250,000. Terms are 30% of the total bid to be deposited on the day of auction with the balance due at closing within sixty days.

7. Salmon River Disclaimer – Request approval for disclaimer of interest to MarRue K. Simmons on 32.23 acres of accretion land adjacent to the Salmon River in Lemhi County. This item was approved.

Director Hamilton provided background information on this item. This is a parcel of accretion land that totals about 32 acres. It is adjacent to and incorporated within the deeded property. It is a former channel of the Salmon River and the Department has determined that we do not have an interest in it and it is recommended that a disclaimer be issued for the property.

8. Capitol Park Plaza Master Lease, presented by Alvin Carr. This item was approved.

Director Hamilton provided background information on this item. The recommendation is that the master lease be amended as a necessary first step toward completion of a leasing arrangement with the Department of Administration. As such, the Department recommends the Land Board authorize the Department to complete amendment of the master lease to remove the first floor, as discussed in the briefing memorandum.

9. Recreational Cottage Site Leases – Appeal Process. This item was moved to the Regular Agenda.

Director Hamilton stated the Department has been working with Attorney Charles Lempesis on this issue. Mr. Lempesis represents the Priest Lake Cottage Site Owners Association. It is the Department's understanding that an agreement has been reached as to how the process should work. Mr. Lempesis has been working directly with Controller Williams. The Department has also received a request for an audience with the Board from Mr. Terry Gilbert, representing the Idaho Education Association.

Controller Williams provided a brief synopsis of the issue. He said there has been a great deal of work done by Deputy Attorney General Stephanie Balzarini, Attorney Chuck Lempesis and Gino White. He believes a satisfactory proposal has been reached.

Controller Williams commented Mr. Terry Gilbert is here today to address one of the related issues. This proposal would bifurcate or divide a couple of appeals. The primary appeals would be on valuation of the lots. The actual location of those would probably be in the counties where the lots are located. Appeals from that decision would go to the Director and then to the Board and then to the courts. The other appeal is questions of law. Page 2, Section I, reads:

- I. In addition to any other opportunity to appeal contained herein, for purposes of 1999, the Priest Lake Lessee's Association shall be entitled to appeal on behalf of aggrieved lessee

members, any non-valuation, legal issues relating to cottage site rental, including but not limited to, constitutional issues. Any such appeal must be made by the Association in writing and submitted to the Department on or before September 30, 1999. A hearing on the appeal shall be held by the Director on or before October 30, 1999. The Director's decision shall be issued on or before November 30, 1999. The Association may seek Land Board review of the Director's decision in accordance with Section V below.

In reading this section, Controller Williams emphasized Section I is for the first year. He continued the "any non-valuation" wording means this is totally exclusive of the other process. Section I then gives dates and procedures. The appeal can only be initiated by the lessees. If the appeal is pursued then other interested parties should be allowed to be at the table.

Governor Kempthorne asked Mr. Terry Gilbert to come forward. Mr. Gilbert is a staff member with the Idaho Education Association (IEA) Land Board Task Force. Mr. Gilbert stated the IEA is currently studying the issue of rental rates at Priest Lake. The Idaho Land Board has established these rates at 2.5% of current market value. The IEA questions whether this amount is fair to the school children of Idaho on whose behalf the Land Board manages the land. Under Section 8, Article 9 of the Idaho Constitution, the Land Board is charged with the location, protection, sale or rental of state endowment lands and is required to manage the lands in such a manner as will secure the maximum long term financial return to the institution to which granted.

Idaho Code §58-310A states that in the absence of the conflict application and auction procedure in the single family recreational cottage site or homesite lease, and lease renewal process, the Board shall ensure that each leased lot generates market rent throughout the duration of the lease. In 1998 the Department of Lands hired an appraiser to evaluate the Priest Lake lease sites. He reported to the Land Board that in his opinion the lease rates should be established at 3.5% of the current market value. The Land Board accepted instead the continuation of the 2.5% rate. The Board based their decision on current market value and took into consideration sweat equity or improvements generated by the landholder.

The IEA notes that the adopted formula of 2.5% of current market value will generate approximately \$2.2 million dollars for Idaho's public school children, an increase of \$943,000 over current revenue. A 3.5% rate would generate \$3 million and an increase of \$1.7 million for school children. The IEA is interested in ensuring that the school children will rightfully benefit from public lands. They urge the Board to remain faithful to its constitutional obligation and statutory responsibilities. The IEA Land Board Task Force will continue to study and to speak on this and other issues as the issues impact the endowment fund and Idaho's school children.

Governor Kempthorne asked if anyone had questions or comments for Mr. Gilbert. Attorney General Lance advised Mr. Gilbert that the topic he covered is not the issue before the Board. The issue before the Board is the cottage site lot value appeals process. He asked Mr. Gilbert if he had any relevant comment or thoughts on that process. Mr. Gilbert responded that the IEA is studying the issue. The IEA is concerned about the rate at this point and wanted to convey to the Land Board its deep interest in the subject. Through its study the IEA may have additional material to present to the Land Board on the issue of concern. Governor Kempthorne thanked Mr. Gilbert for his information.

Next, Governor Kempthorne asked Attorney Chuck Lempesis for comments. Attorney Lempesis said Controller Williams underestimated his role in helping to finalize the appeal process. The Association completely concurs with the process. This concurrence would not have been reached without the very capable assistance of Controller Williams. The Association has accomplished what it set out to do. The process helps take some of the politics out of the

decision making and it enables parties to have a viable process that allows people to be heard and to make credible decisions.

Attorney Lempesis thanked Controller Williams, Mr. Gino White and Deputy Attorney General Stephanie Balzarini. He believes the process reflects in detail the verbatim transcript of what was approved in southeastern Idaho on July 13th, 1999. Absent any questions, Attorney Lempesis recommended that the process be approved.

Governor Kempthorne thanked Mr. Lempesis for his comments and for his significant involvement. The Governor also thanked Controller Williams for his great work.

A motion was made by Controller Williams and seconded by Attorney General Lance to approve the process. The motion carried on a vote of 5-0.

10. Grazing Leases and Cropland Leases – Request for Negotiated Revision of Administrative Rule IDAPA 20.03.14. This item was approved.

Director Hamilton provided background information on this item. He stated it has been many years since the Administrative Rules governing grazing leases, grazing lands and cropland leases have been updated. There have been several changes in the code.

With the Court's advisement, the Department is suggesting this may be the time to revise the rule on how the Department proceeds in some of these areas. The Department is recommending the use of a negotiated rulemaking process in which all interested parties will be invited to come in and discuss the issues before the Department comes back to the Board with some specific recommendations for entering into the final rulemaking process.

• REGULAR AGENDA

11. Director's Report, presented by Stanley F. Hamilton, Director, Department of Lands

Director Hamilton provided the following information:

Gooding TB Hospital Update – On September 13, 1999 the Public Building Fund Advisory Council decided to proceed with requesting bids to demolish the Gooding TB Hospital. Questions have been raised about the participation and involvement of the county and the city. A meeting was held in Coeur d'Alene and apparently those entities attended. Approval to proceed will depend on the bids. All bids will be subject to the following:

- ☐ Leaving the Boiler Plant and attendant shops intact for future use by the city/county. Asbestos will be removed as part of the bid process.
- ☐ The county will provide a free dumpsite for all refuse from the demolition except asbestos. The county will also provide a Cat to work the dumpsite. This will free the demolition contractor from a fairly substantial task.
- ☐ The county will provide a free source of satisfactory backfill materials.

Director Hamilton stated it looks like we have an excellent opportunity to accomplish the goal we set out last year when the Legislature approved funding for demolition. It looks like some of the obstacles have been removed and we are hoping everything will proceed according to plan.

1999 Fire Season Update – As of September 8, 1999 Emergency Fire Suppression Expenditures were estimated to be \$1,235,000 with approximately \$325,000 in reimbursable costs for a net from the general fund of \$910,000.

Director Hamilton stated the season is not over by any means but we have turned the corner. Barring some unforeseen action, like the 1991 firestorm, we probably will end the season in good order. We have had a few more fires than we had last year and the year before. We burned a few more acres but not substantially.

Summary of fiscal year 2000 Principal Fund Balances and Revenue Composition The total Permanent Endowment Fund sits at approximately \$771,000,000 as of August 31, 1999.

Director Hamilton explained that the chart shows a general upward trend and then a flat line. The flat line is indicative of two months worth of proceeds coming into the endowments for investment. There were corrections undertaken by the Endowment Investment Board. The corrections totaled about \$4.2 million. Corrections of this type are a standard yearly occurrence.

- Income Contributions
- Historical Quarterly
- Permanent Endowment Contributions

The reports listed above show how the Department has proceeded over the past six years. It is an excellent history and it has proven to be quite useful in the restructuring of the budget and the endowment investment reform proceedings.

- *Improvement Fund Cash Balance*

The Department has estimated, starting with a cash balance on June 30, 1999, what the balance will be on July 1st, 2000. That is the date the Department enters the new endowment reform period with all the changes in statute. The balance will be about \$24 million. That balance will help form the buffer inside the Earnings Reserve Account. This is a very crucial number and it is one the Department has only recently been able to pin down fairly accurately based on projections for this year.

- *Permanent Fund Revenue*

This report is a takeoff on some of the others. It shows what the Department's different programs have generated or realized for the past six or seven years. The report reflects the timber program, real estate, cottage sites and minerals. It then shows some totals.

- *Income Fund Revenue*

This report shows monies distributed directly to beneficiaries by the Department. At this point other revenues go to the permanent fund. After July 1, 2000 both sources of revenue, as well as the 10% revenues that will cease to be 10% revenues, will go into the Earnings Reserve Account and will be available for the program that will be established there.

- *Summary of Information*

This information was put together by the Legislative Budget Office from numbers the Department has from 1995 through a projected 2001. The sources are revenue to all the various endowments – money from the permanent endowments, money from the income fund, money from the Investment Board and monies derived from the improvement fund. These numbers are being used to make estimates and projections as to where the Department can go from the 2001 starting point. We will continue to work on those numbers and on other numbers needed to make the whole process complete.

Charlie Saums, Permanent Fund Endowment Investment Board, Sheri Wakagawa and I met last Friday with a consultant. The consultant will be working for the Investment Board on a spending rule and on the division of assets between the current beneficiaries and future beneficiaries. Friday was our first session. Mr. Saums estimates that by November we will have their report back and will be able to come in and make a complete report to the Land Board. The consultant will be speaking with Controller Williams, Treasurer Ron Crane and the two co-chairs of the Investment Reform Committee to gain an understanding of where everyone is coming from on this matter.

12. Potential lease to Blaine County for development of recreation area (soccer and baseball fields) in Ohio Gulch, north of Hailey – Presented by Alvin Carr, Lands Leasing Specialist and Blaine County

Mr. Alvin Carr provided background information.

Controller Williams commented the state is fortunate to lease the property because of the landfill. Blaine County may want to consider purchase of the property as part of the deal. Controller Williams believes the lease is a good proposal.

At this point, Governor Kempthorne invited Blaine County Commissioner Mary Ann Mix, Mr. Jed Gray and Mr. Brian McCoy to come forward.

Commissioner Mix thanked the Board for inviting the Blaine County representatives to the Land Board meeting. Various staff have been working on this project for four to five years and today's meeting is the culmination of a lot of people's work. It has been the vision of a lot of folks in the community to provide a recreational facility for youth and for the community.

Commissioner Mix advised Controller Williams that Blaine County would be interested in discussing the potential of a lease option. She feels with the type of funding necessary for improvement of the facilities, it would certainly be to the benefit of the town to acquire property.

Commissioner Mix continued that for today's meeting, Blaine County has a bond before the electorate on November 2nd, 1999. The county needs some kind of agreement in principle that it can move forward to have the bond set.

Governor Kempthorne commented this is an excellent program. He suggested putting a few human elements into the picture. Commissioner Mix responded Blaine County does not currently have recreational playing fields. The home field for Blaine County soccer teams is in Twin Falls. Brian McCoy commented this lease would provide a great opportunity for the children of Blaine County to have a place to go to use up some energy and to really feel good about themselves without having to travel such a long distance.

Governor Kempthorne asked how many soccer fields could be put on the property. Mr. McCoy responded three fields at the present time. The possibility of expanding that number to perhaps as many as five or six has been discussed.

Mr. Jed Gray commented one of the reasons it has taken Blaine County such a long time to get a lease of this nature is due to the limiting factor of water. It is important to realize the value of this lease to the community. One of the citizens within the community, a developer, over the course of time has been able to reconfigure some of his personal water rights. He is actually giving to the Recreation District water rights that can be applied to this property to then turn the property

into a productive playing field. Considering how precious water is within the state of Idaho, this is an incredibly strong statement and shows the kind of need the county has for this facility.

Mr. Gray continued it is also a great opportunity to turn a piece of ground that is a sow's ear into a silk purse. The whole landfill area is not terribly attractive. It is wonderful to be able to turn the land into a recreational facility that will benefit youth. The location is excellent because both north and south county can access it. Kids can get there by a bike path that is already basically in place except for a short stint.

With regard to the gun club, Mr. Gray said he is a member of the gun club. There are supervising personnel at the gun club at all times. The shooters shoot in a northerly direction. The soccer fields will be due south. Guns are always a dangerous item but it is felt the direction, along with separation by a road, clearly will create the kind of safety needed.

Governor Kempthorne acknowledged that the water contribution is a significant and financial value. The person making this contribution is Mr. Harry Rinker. Mr. Rinker is a developer in Blaine County. Actions such as Mr. Rinker's contribution continue to pull the community together. Governor Kempthorne thanked all participants. He said it has been a labor of love and it is going to be an excellent project.

The Governor asked the Blaine County representatives if they were seeking conceptual approval to help with the bond election. Ms. Mix said that is correct. The Governor stated the Board does not have the lease at this time.

A motion was made by Attorney General Lance to approve the lease agreement with Blaine County as reflected in agenda item #12 subject to final documentation being prepared. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

Director Hamilton asked if his understanding of the motion is correct. Once the lease is prepared, the Department will circulate the lease to all Board members and, hearing no objection from any of the members, the Department will proceed with the lease. Attorney General Lance concurred saying Director Hamilton's understanding is a correct explanation of his intention. The Governor commented the lease could be completed before November 2nd, 1999. Director Hamilton agreed saying the Department would make every effort to make sure it is.

13. Potential short term lease to Industrial Services Commission for parking area, presented by Alvin Carr, Lands Leasing Specialist

Mr. Alvin Carr provided background information.

A motion was made by Controller J. D. Williams to adopt the Department's recommendation. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

14. Federal Lands Task Force

A. Update on current activities, presented by John McGee

Governor Kempthorne acknowledged Senator Judi Danielson and John McGee.

Director Hamilton provided background information on the Federal Lands Task Force. Director Hamilton stated this issue is one of considerable standing. The Federal Lands Task Force has spent almost two years in the process of taking a look at the management of federal public lands.

Last month the Western Attorney Generals met in Juneau, Alaska. Attorney General Lance invited Jay O'Laughlin, Executive Officer for the Policy Analysis Group at the University of Idaho, to speak with the group about Federal Lands Task Force issues. Mr. O'Laughlin was one of the principal developers of some of the recommendations. He was also the spokesman who presented Task Force recommendations to the Land Board. Director Hamilton distributed a copy of Mr. O'Laughlin's Power Point presentation. Director Hamilton commented that the handout is a thorough and excellent summary of the entire process.

Director Hamilton advised the Board there are a couple of items that need to happen today. He directed the Board's attention to the last item in the Land Board handouts. That item is a page out of the BSU poll on Public Land Policy. The handout does not address the Federal Lands Task Force directly but it does address federal land transfers to states and the terms under which that action would be undertaken. That was not an issue before the Federal Lands Task Force but the manner in which the handout is phrased is interesting and appropriate. It does indicate some interesting thoughts of the public at large.

Director Hamilton continued by saying John McGee is the coordinator who has been selected to carry out the implementation of the Task Force along with folks who will sit on a working group that is intended to advise him and guide him and maybe direct him occasionally. Certainly they will help with the strategizing as to how to carry out those recommendations. John will provide the Board with a brief report on what he has been doing. After that, if the Board so chooses, the Board will have an opportunity to discuss the possible appointment of some folks to that working group to assist John.

Governor Kempthorne welcomed Mr. John McGee. Mr. McGee thanked the Land Board for all of the efforts the Board has made in support of this project. He feels the Board's continued public support will only further assist the Task Force in getting the work done. Mr. McGee stated that Senator Danielson and Representative Cuddy, along with the other members of the Federal Lands Task Force, have been tremendously helpful in their suggestions.

Mr. McGee provided a brief synopsis of his activities. He said he has been doing the research portion of the project. He has been researching previous congressional actions trying to determine if a precedent exists for this effort and what the different types of approaches might be.

Based on his research, Mr. McGee believes the Task Force does have precedent. This belief is not from making a legal conclusion but a logical conclusion. He feels there is precedent for this effort and this is something that we have seen in the past. He stated we have not seen it pursued to the degree that we are trying to deal with on this project. He believes we can point to the few efforts the state has tried and that other government organizations have tried as examples of what we are going to do.

Mr. McGee said he has talked with a lot of people. He has toured some mills and has talked to some educators. By making these contacts, Mr. McGee understands why this effort is so important. Mr. McGee feels the most important action at this point is that we do in fact get the implementation put together. There is a lot of opposition to this effort.

Governor Kempthorne asked Senator Danielson for comments. Senator Danielson thanked the Land Board for its work since 1996 on this issue. She commented there is a lot at stake. Idaho is on the leading cusp of this issue. The very first ones to benefit will be the children who now reside outside the more metropolitan areas of Idaho. Those children are lacking in education because of the turmoil that is going on. Idaho has received a lot of notoriety around the nation.

Senator Danielson stated that this summer she was invited to talk to the Environmental Journalism Journalists. This is an international organization with involvement from the Wall Street Journal. Based on all of the organizations in attendance, she expected to have a tough time. However, everyone was very open. They thought the time had come to look at this. Senator Danielson saw those views as a very bright light for us. She commented Mr. McGee is doing a great job. He will be dealing with some extremely strong personalities. She thanked the Land Board for their support. She stated without the Land Board this effort could not have proceeded this far.

Governor Kempthorne thanked Senator Danielson and Representative Cuddy for their hard work and great leadership.

Secretary of State Cenarrusa commended Senator Danielson and Representative Cuddy and the Task Force for their work. He feels they have started out on a good course and he is enthusiastic about the effort.

Controller Williams observed this has been quite a process. It is far from over and it is not going to be easy. It is a new idea and he believes its time is coming. He acknowledged Senator Danielson for her report and for her work on this issue.

Controller Williams advised Mr. McGee that he is interested in any precedents found. He wonders if we could bootstrap onto part of those precedents. He commented the poll results are interesting. If we meet the environmental regulations, well over two-thirds of the state would support this concept. The concept has merit. We just have to keep pursuing it. A lot of that pursuit involves education, such as Jay O'Laughlin talking with the attorney generals.

Controller Williams continued it should take several years to do this. But if we use this resource properly we can profitably administer these lands, share the profits with the federal government and hopefully direct this to public schools. Why not have world class schools and use this as a major catalyst for that. There is a lot at stake for the long term but it is not going to be easy.

B. Appointment of working group members

Governor Kempthorne asked Director Hamilton for the action on this item.

Director Hamilton stated at the Board's pleasure, now would be an opportune time to consider any appointments for a working group to assist John McGee. At this point he has probably reached the end of his tether until he gets some folks he can bounce some ideas off and begin to strategize the path they want to take.

Governor Kempthorne advised the Board it has before it the following names for consideration:

Federal Lands Working Group Proposed Membership

- ☐ Phil Church
- ☐ Bob Maynard
- ☐ William G. "Bill" Myers III
- ☐ Susan "Susie" Borowicz
- ☐ John Foard
- ☐ Bill Mulligan
- ☐ Gerald Schroder
- ☐ Jeff Celik

Ex Officio Members

- ☐ Senator Judi Danielson
- ☐ Representative Chuck Cuddy
- ☐ Stan Hamilton
- ☐ John McGee

A motion was made by Attorney General Lance that the above list would comprise the working group. The motion was seconded by Secretary of State Cenarrusa. The motion carried on a vote of 5-0.

C. BSU Poll Results – Public Land Policy – Information Only

No action was required on this agenda item.

• **INFORMATION AGENDA**

Director Hamilton briefed the Land Board on the Information Agenda items. No Land Board action is required on the Information Agenda.

- 15. Timber Sale Activity Report
- 16. Interest Rate Update
- 17. Triumph/Stibnite Mines Update
- 18. Report on Application Received for 1995-1996 Reopened Grazing Leases

Director Hamilton stated agenda item #18 is a summary of applications submitted for 1995-1996 grazing leases. Those leases were cancelled by the Supreme Court. The summary shows where the leases are located. Most leases are scheduled for auctions if there is a conflict. Some of those auctions have been held.

The Board discussed issues related to the leases. Attorney General Lance commented about Lease G-6639. He stated we issued a lease of 14,143 acres. The Supreme Court of the state of Idaho said we do not like the way you approached issuing that lease. You need to re-auction that lease. Now all of a sudden we are trying to break it into five separate parcels and do one management unit in apparently five or more sales. He said he is having difficulty understanding where that came from without Board direction.

Director Hamilton stated it was the Department of Lands understanding of the Supreme Court opinion, and the Department may well be wrong on that understanding, that we would accept applications and that we would not – neither the Board nor the Department – pre-qualify those applications before the auctions occurred. That is the general basis for it. If we are wrong, we stand corrected.

Attorney General Lance asked if he wanted one acre of that 14,000 would the Department permit him to pre-qualify for one acre, the Governor for one acre and somebody else for one acre? He asked who is calling the shots? Director Hamilton said it is clear the Department would prefer not to do that. We did not understand that was the Board's policy. If it is, we stand corrected.

Attorney General Lance said it was his opinion that we had an auction for 14,143 acres. The Supreme Court said you guys ought to re-auction 14,143 acres. We are not obligated to try to divide that acreage into 14,000 different leases.

Mr. Bryce Taylor said he has discussed this item with the Board three separate times trying to iron out what to do. He said the Department came away from those Board meetings with the opinion that we would go through these kinds of questions but post auction, not pre-auction. He believes that is the only difference. The Department is prepared to come before the Board to ask for guidance as to whether it should be broken down into 14,000 individual parcels, for example. The Department came away from the last Board meeting with the concept that we would do that same thing but that we would do it post auction and not pre-auction. We did not want to stand the risk of offending the Court's decision that we had to take these to auction.

Attorney General Lance said the problem he is having is how do we compare it. We are going to be talking about apples and oranges. If, for example, a conflict bidder is successful in some of these smaller parcels, and the original lessor/lessee has all of the 14,000 acres under one bid, how are we going to compare those two? Mr. Taylor responded the Department of Lands would have to conduct that as four separate auctions. Then it is professional that we come back to the Board and recommend to you whether that should be broken into four parcels or whether we believe management and long term revenue is best served by retaining it as one. It will be difficult. We recognize that in trying to process these. Our concern was that we do that after the auction versus before.

Attorney General Lance asked if we would need to do six different auctions. You have applications for 160 acres, 857, 640 and 640. He could bid on all of those but still have this big 14,000, less these four. There is a remainder unit out there that nobody is bidding on or maybe only one person is bidding on. Then we have to take all of the bids and add them together to figure out which is going to give the highest return to the endowment institutions. It seems we are talking about six separate auctions and we are likely to have a remainder that nobody has bid on or that only one bidder has bid on. As managers, we need to make a decision as to what the management unit is. If we want to lease a management unit we can not have 15 people picking and choosing which areas they would like to bid on and then telling us how to run our auction.

Mr. Taylor said we had some of this same discussion as early as last Tuesday. It is a very difficult process. We have another application, not subject to the Supreme Court decision, that is on a fairly good block of state land. We had it separated into two pastures for rotation. We have one applicant applying on one pasture and two applicants applying on both pastures. We are struggling with some of that analysis. We will conduct the auction again in that scenario and bring forth to you our recommendations on how we think the management will best be served, whether it is at one unit with two pastures or two individual pastures with separate leases. We will be struggling with some of that. I believe we can make sense out of it after the auction proceeding.

Attorney General Lance said assume someone is dissatisfied with the manner in which the auction was conducted. All of our budgets are devoted to litigation. He said he would appreciate it if we thought our way through this a little bit before we go to auction. He feels there is an issue of fundamental fairness as well as who is calling the shots – the conflict bidders or the members of the Land Board?

Mr. Taylor said the Department has most of the auctions scheduled but if the Board so chooses the auctions can be cancelled. Director Hamilton said the implications of that action would be that the Department staff has to come back to the Board with all of the lands in that lease. It has to then make a recommendation to the Board as to whether there are management units within the lease that can be conveniently carved out.

The Department has to do just that in the case of conflict applications filed for certain acreages that might not be what the Department has come up with as manageable units. The example Mr. Taylor alluded to was a situation where we have a nice block and one operator is interested in one pasture and two operators are interested in both pastures, one of them being common to both.

All of our major blocks have more than one operator that might be willing and able to use it. There are any number of management units that could be developed out of those different options. The question of concern is we then come back to the Board and say here is what we think are the management units. Board, do you agree? You agree and then we go to auction. The concern is that the Department could somehow get tangled up in what the Supreme Court said. We are willing to do whatever we can.

Secretary of State Cenarrusa believes Attorney General Lance made a good point. He commented it has taken years to put an operable lease together. It has been the Department's goal and the Board's goal over the past years to try to consolidate these leases so they all come up simultaneously in one lease.

Director Hamilton said Secretary of State Cenarrusa is absolutely right. In the past both the operator and Department staff have worked to try to simplify the administrative details that go into these leases. We might have a lease of a fairly large block included with leases of isolated 640s that might be in different allotments. Those we put together basically for administrative simplicity and they were not put together with an eye toward putting together a management unit.

If we were to put together a management unit obviously those large allotments would be in a separate lease. We would set it up that way so the management unit was identified and isolated. If someone came in and wanted to just conflict one then the Board would be in an admirably posed position to say no. The management unit is this allotment and all of the state lands that are within that allotment. That is the management unit because it is part of say a larger BLM or private allotment.

Controller Williams commented he had a couple of questions for Director Hamilton. The overall goal is to make the most money we can. The issue is whether these individual tracts are viable in and of themselves. Say we have a 14,000-acre parcel. Let us assume it is in one piece. There have been four conflicts for approximately 2,000 acres. Director Hamilton said they would be scattered. Controller Williams continued there is

no conflict on 12,000 acres. That would go to the one so the issue would be on the other four whether they stand alone or not.

Director Hamilton said Attorney General Lance is right on target. His position is very clear. We want to do what is right regarding management units. Our concern was getting tangled up with the process before auction versus after auction. The Department has no problem coming in after auction and telling the Board our wisdom for leasing certain parcels. We did not believe we had that latitude. In fact we discussed this on several occasions here in the last two or three months and the issue did not come up. We have a goal of making as much money as possible out of this. We also have a goal of determining the most reasonable management units and the most reasonable leases for the long term.

Controller Williams commented the Department has quite a bit of discretion in making a pre-determination of whether an allotment is viable. If the Department makes that determination pre-bid, it may eliminate a lot of activities, a lot of costs and a lot of unmet expectations ahead of time. Controller Williams recognizes the Department is sometimes getting conflicting signals but the Attorney General has crystallized it pretty well today.

Mr. Taylor said he believes this is an attempt to take water from a rather large allotment. We would certainly be willing to express that. Again, the only difference we have at this point is do we do that after the auction or before. We can quickly put together some maps and show you that this is a very deliberate shot of taking the water out of an allotment.

Mr. Taylor stated we have in the file, which becomes part of the record when we do the analysis, a letter from Simplot Livestock. The letter says if they were to lose these four parcels of land, the remainder of the state land in that allotment is potentially not useful because they would lose their water. That is one of the issues we addressed when we went over this in 1995 and 1996.

Mr. Taylor agrees it would be a money saver and an administrative saver if we could make those decisions beforehand. Some of the difficulties come from what we as staff view as a manageable unit versus what an individual views as a manageable unit. 640 acres could be a manageable unit by itself. The effect it has on the remaining land is a very large concern to us. When we receive a letter that simply tells us if we lose these we may not be interested in the remaining 12,000 acres, it certainly causes us concern. We would address that when we come back. We do have time.

Director Hamilton feels the only issue would be the auctions that have already been held.

Secretary of State Cenarrusa commented that this is a good point. If this is cherry picked into four different leases then what is the 12,000 acres good for. It may not be good for anything. The lessee may not be interested. And, moreover, Mr. Marvel lost these in the beginning because of that very same tactic of cherry picking. What is the output?

Governor Kempthorne asked Mr. Taylor about parcels 160 to 857. This was not defined by the state. Mr. Taylor said that is correct. When we put these back up for lease we post a notice of the lease description. The applicant simply looks at those and picks and chooses what would be good for him without asking our input. He then submits the application. We start dealing with the application at that time.

Governor Kempthorne asked if the posting was for 14,143. Mr. Taylor said yes. Governor Kempthorne asked what precedent is then established if no matter what henceforth when we post what we are trying to receive a lease on, any division of that is now acceptable.

Director Hamilton responded historically that has been the case. Any person could file an application for one acre, if that is what they wanted. Then it was up to the Board to sort it out. If the Board chose not to sort it out, they would reject it. Because they have more than just a single block, they have scattered allotments, for administrative purposes the conflict applicant, regardless of who it is, comes in and just picks a part of it. The Attorney General is clear that the Department should sort that out and make sure it is a manageable unit before we proceed. That is your direction. We can certainly do that.

Attorney General Lance suggested we take a look at our rules and figure out exactly what our rules are intended to do.

Controller Williams said the issue of whether an allotment is viable and whether something is an economic unit is a pure question of fact. He believes we have procedures set up now that we probably ought to go ahead with because they are set and we are at this point. Each of these is going to be a factual question. He is sure that whatever we do on this matter there will be judicial review. Facts should control. Normally the Appellate Court is reluctant to overturn decisions regarding facts. If we look at each case individually, and at the same time examine the process and look to revising our rules so we have some semblance that everything is fair and will gain the greatest value to the trust fund, that approach will be successful in the long term.

19. Recreational Cottage Site Leases – 10% Premium

20. Douglas-fir Bark Beetle Project Appeal

A motion to enter Executive Session was made by Attorney General Lance and seconded by Secretary of State Cenarrusa. The motion carried on a vote of 5-0.

EXECUTIVE SESSION

21. Briefing on SRBA Adjudication, presented by Clive Strong, Deputy Attorney General

22. Treasure Valley Concrete vs. State of Idaho, presented by Will Whelan, Deputy Attorney General

A motion to return to Regular Session was made by Attorney General Lance and seconded by Secretary of State Cenarrusa. The motion carried on a vote of 5-0.

- **REGULAR AGENDA**

23. Department of Lands FY-2001 Budget Presentation, presented by Stanley F. Hamilton, Director, and Sheri Wakagawa, Fiscal Officer

Director Hamilton introduced Sheri Wakagawa, Budget Officer for Department of Lands. Mrs. Wakagawa provided Department of Lands budget information for the Board.

Superintendent Howard asked about the abandoned mine reclamation account. Director Hamilton explained the Legislature created a program to reclaim abandoned mines when appropriate. There are hundreds of these mines all over the state. A lot of the mines are dangerous. The Legislature asked the Department to do the work because we already handle reclamation of mines. A dedicated fund source was created. The source is not endowment but is from some other source. It was decreed that the money would start to accrue in that account.

This item is simply the spending authority to spend that money to do abandoned mine reclamation. We have not done any of that up to this point. The point was to come up with a dedicated fund source so that we would have money available to do that work without attacking any other program. It is not an endowment program. It is basically a general fund program but through a dedicated fund.

Controller Williams commented in 1999 the general fund paid \$12 million toward the operation of the Department. In 2000 it looks like \$7.2 million and then in 2001 \$5.4 million. He observed that is a reduction of about \$7 million over two years. Public schools will get three and a half, if the formula stays the same. He said the amount is a little more than he thought it would be.

Secretary of State Cenarrusa asked what was budgeted for noxious weed control. Director Hamilton responded the amount is pretty close to \$60,000 or \$70,000. Funding is in the ongoing base and is used just for weeds. It might be higher than that. The Department did not ask for any additional funds this year. We are working with county weed districts on projects and we seem to be keeping pace very nicely. We may be back next year for a big jump as the program gets going.

Attorney General Lance asked about FTEs. The handout shows FTEs in Timber Management of 87.34 in FY 1999 and 96.08 in FY 2001. Mrs. Wakagawa explained part of the increase reflects the shifting of staff positions. Some staff were in one program but doing the work primarily of another program. Some employees ended up split between programs.

In Timber, some staff listed in support services were actually doing road maintenance for our forestlands. That accounts for two of the increase. Overall the Department went from 237.86 to 243.45. We increased some FTEs in the 2000 budget and then we are requesting one more. There is some fluctuation between the programs due to the restructure. We moved some positions around to get them into the proper programs.

Director Hamilton added last year we received five new positions in our appropriation. This budget calls for another one. Some of those positions came as a result of the direct request to start with and some came as a function of the restructuring as we got into the budget. We received several last year. We are asking for one this year. We may or we may not get that.

Governor Kempthorne asked Director Hamilton what action he was seeking. Director Hamilton responded that at this point the Department requires Board concurrence to proceed with the budget. The deadline was September 1st, 1999. The Department did, however, send forward to the Governor's office and to the Legislative Budget Office a draft budget subject to any changes made by this Board.

If the Board agrees with the proposal before it, we will send the Department budget forward immediately. If the Board has changes or suggestions for modifying the budget we will do that before we send it forward. In any event, it needs to go forward fairly quickly.

Director Hamilton brought one particular item to the Board's attention. He stated he had a discussion some time ago with an individual named Jim Lyons. Mr. Lyons is interested in a decision unit that would look at RS2477 roads at some depth. Basically he was making a proposal that would hire a group of engineers, or like persons, to look at roads or trails that might be RS2477 roads that could be claimed by the counties. The proposal was for several hundred thousand dollars. At this point Director Hamilton said he probably would not include the proposal in the budget unless the Board feels it is something that should be pursued.

Attorney General Lance commented about prior appropriations to Mr. Lyons. Director Hamilton said there have been two prior appropriations. Each was for about \$30,000. Both appropriations were administered by the Department as contracts. We contracted with the State Historical Society. The Society went to Washington, D.C. and pulled together a lot of maps. The maps are on file at the Historical Society. In both cases we reverted about \$15,000. We did it for about half the price. That was the beginning.

Now Mr. Lyons is interested in pursuing another avenue with the project. The new avenue would look at roads and trails that have been in existence for a long, long time and then try to determine what the merit was – when they first appeared, how they first appeared.

A couple of years ago both of those appropriations did not come in through our regular budget process. Both were last minute additions. They went directly to JFAC. They did wind up in our appropriation and we did administer the contracts.

Attorney General Lance suggested Mr. Lyons may need to go to the Association of Counties because ultimately the benefit would be to the counties. Director Hamilton concurred. The state will not get the RS2477 roads. That is the logical solution of where those roads would wind up. Some roads would probably run across state lands where they were in place before we acquired them in 1890. But generally the county would be the beneficiary. If it is an issue, Director Hamilton said he could put it in the budget. The Department is not opposed to that possibility but the proposal needs to be fleshed out a little bit.

A motion was made by Attorney General Lance to support the budget as presented by the Department of Lands as a total package. The motion was seconded by Secretary of State Cenarrusa. The motion carried on a vote of 4-0 with Governor Kempthorne abstaining from the vote.

The morning portion of the agenda being completed, the Board stood in recess until 1:30 p.m.

24. WestRock

The Board reconvened at 1:30 p.m. to hear reports on the estimated impacts of WestRock's proposed resort project from Valley County, state agencies, the U.S. Forest Service and from the proponent.

A transcript of the WestRock portion of the meeting is hereby incorporated by reference into the official minutes. A copy of the WestRock transcript is available for review or purchase upon written request. A fee of \$6.40 will be charged for the copying of the WestRock transcript pursuant to Idaho Public Records Act, I. C. § 9-337 through 9-348. (128-page transcript x \$.05 per page = \$6.40)

A motion was made by Attorney General Lance that a proposal be prepared dealing with the 2,124 acres, as identified in the agenda item. Once prepared the request for proposal (RFP) would be put on the street. If anyone wants to submit a proposal on this particular property, they would be able to do so. The motion was seconded by Secretary of State Cenarrusa. The motion carried on a vote of 5-0.

There being no further business to come before the Board, the meeting adjourned at 6:00 p.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Pete T. Cenarrusa
Pete T. Cenarrusa
Secretary of State

/s/ Stanley F. Hamilton
Stanley F. Hamilton
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the November 9, 1999 regular Land Board meeting.